

**INTERNAL AFFAIRS INVESTIGATION**


**2006-15**

Assigned: November 22, 2006  
Completed December 11, 2006

Investigator: Sergeant Joe Allen

**ATASCADERO POLICE DEPARTMENT  
MEMORANDUM**

**To:** Carole Robinson, Lieutenant

**From:** John G. Couch, Chief of Police 

**Subject:** Internal Affairs Investigation RE: Officer Involved Shooting IA # 2006-15

**Date:** 11/20/06

Please see that an internal investigation is conducted on the officer involved shooting related to the incident at 9377 Bocina Lane at 2208 hours on 11/18/06. Personnel involved in the incident are Sgt. Meyer and Officers Kasfeldt and Falerios. The due date for completion is December 1, 2006.

**ATASCADERO POLICE DEPARTMENT  
MEMORANDUM**

**To:** Internal Investigation File #2006-15

**From:** John G. Couch, Chief of Police *JGC*

**Subject:** Completion of Internal Review of Officer Involved Shooting

**Date:** January 30, 2007

I received the letter from the office of the District Attorney on 1/25/06 regarding the disposition by their office of the investigation into the officer involved shooting. The letter described the sequence of events that preceded the shooting, the shooting itself, and the depth of the investigation they conducted. The letter went into great detail of the actions of the officers, the observations of witnesses and the forensic exam of the evidence. The conclusion of the investigation was that Officer Kasfeldt, as well as the other officers who were present, were not in violation of any criminal law. Hence, the killing of Suspect Pope was justified.

I compared the investigation conducted by the District Attorney's office to the criminal and internal investigations conducted by the Atascadero Police Department. The investigations were consistent in the depiction of the events.

After considering all of the information referenced above, I have determined that the actions of Officer Kasfeldt as well as other personnel involved were according to accepted procedures and were in compliance with the use of force policy. Officers responded to the apartment to make contact with the suspect while following up on a crime that occurred earlier. They attempted to get him to come to the door and took necessary precautions due to the information they had regarding his background and his potential possession of a high powered rifle. The suspect walked out of his apartment door carrying a high powered rifle that was later determined to be loaded with live rounds in the chamber and magazine. The dust covers on the scope were flipped open. The safety was later determined to be on.

The suspect was given repeated demands by Officer Kasfeldt to drop the rifle. The area was well lighted and Kasfeldt and others were in full properly marked uniforms. Despite repeated demands to drop the firearm the suspect pointed the rifle directly at Officer Kasfeldt. Officer Kasfeldt fired his assigned AR-15 rifle five times, striking the suspect with each round. Officer Kasfeldt believed his and others' lives were in immediate danger and his use of deadly force was reasonably necessary and within the provisions of the Use of Force policy. Officer Kasfeldt was current in his training. His weapon was maintained in proper order and functioned properly. Officer Kasfeldt used appropriate cover and took reasonable precautions when attempting to contact the suspect.

Officer Kasfeldt's actions were reasonable and necessary. The actions of the other officers during and after the shooting were also within policy and the standard operation procedures related to officer involved shootings. The finding of this internal investigation is that Officer Kasfeldt's actions and those of Sgt. Meyer and Sr. Officer Falerios are exonerated.

This investigation is now closed. No further action to be taken.

A handwritten signature in cursive script, appearing to read "John G. Couch".

John G. Couch  
Chief of Police

January 30, 2007



**ATASCADERO POLICE DEPARTMENT  
MEMORANDUM**

**To:** John G. Couch, Chief of Police  
**From:** Carole Robinson, Lieutenant  
**Subject:** Citizen Complaint #2006-15  
**Date:** December 12, 2006

**Complainant:** John G. Couch  
Chief of Police  
Atascadero police Department  
5505 El Camino Real,  
Atascadero, CA 93422  
Phone #461-5051

**Complaint:**

1. Officer responded to a location to attempt contact with a suspect wanted for criminal threats, domestic violence, and false imprisonment. When contact was made with the suspect, the suspect pointed a loaded rifle at Officer Kasfeldt. When the suspect failed to comply with verbal commands to drop the weapon, Officer Kasfeldt fired his duty AR 15 rifle at the suspect, hitting him 5 times with 5 shots and mortally wounding him.

**Officers Involved:** Officer Wyatt Kasfeldt

**Finding:** Complaint 1- Exonerated;

Officer Kasfeldt responded within policy and procedure when dealing with an armed suspect who was placing Officer Kasfeldt's life, and other officers and citizens within the apartment complex, in imminent danger by pointing a loaded rifle at Officer Kasfeldt.

**ATASCADERO POLICE DEPARTMENT  
MEMORANDUM**

**To:** Chief Couch  
**From:** Sergeant Allen


**Subject:** Internal Affairs Investigation 2006-15

**Date:** December 11, 2006

Chief:

I have completed the Internal Affairs investigation that I was assigned regarding the officer involved shooting. Please review and return the document if there needs to be corrections, deletions, or additions.

**ATASCADERO POLICE DEPARTMENT  
MEMORANDUM**

**To:** Carole Robinson, Lieutenant  
**From:** John G. Couch, Chief of Police   
**Subject:** Internal Affairs Investigation RE: Officer Involved Shooting IA # 2006-15  
**Date:** 11/20/06

Please see that an internal investigation is conducted on the officer involved shooting related to the incident at 9377 Bocina Lane at 2208 hours on 11/18/06. Personnel involved in the incident are Sgt. Meyer and Officers Kasfeldt and Falerios. The due date for completion is December 1, 2006.

Atascadero Police Department  
Internal Affairs Investigation  
2006-15

**Background:**

On November 18, 2006, Atascadero Police Department patrol personnel responded to the 9300 block of Bocina to follow-up on a domestic violence crime report. The officers made attempts to contact the suspect in the crime via telephone. The suspect did not answer the phone. With the knowledge the suspect was possibly armed with a rifle, officers waited outside of the suspect's apartment and tried to gain his attention by throwing rocks at his front door. Some time passed and the suspect exited his front door. The suspect was armed with a .308 long rifle when he exited his apartment. The suspect raised the weapon and pointed it toward the officers. After verbal commands by one of the officers for the suspect to drop his weapon, he continued to point it toward officers. One APD officer shot the suspect 5 times using a department issued AR-15 patrol rifle. The suspect succumbed from the gunshot injuries he received.

**Involved Parties:**

Sergeant Gregg Meyer	Watch Commander in charge during the incident
Officer Wyatt Kasfeldt	Officer involved in the shooting

**Witnesses:**

Detective Jeff Wilshusen	Detective handling the 245 (a)(2) P.C. investigation
Detective Rene Vasquez	Follow-Up detective
Detective Jason Carr	Follow-up detective
Deputy Steven Tate	Assisting Deputy Sheriff
Deputy Jeremy Flores	Assisting Deputy Sheriff
Deputy John Marrs	Assisting Deputy Sheriff
Deputy Mark Adams	Assisting Deputy Sheriff
Sergeant Dana	Follow-Up Sergeant
Sergeant Robert Molle	Watch Commander during the first crime report
Senior Officer Keith Falerios	Witness Officer
Senior Officer Brown	Officer during the first crime report
Officer Jason LeClair	Officer during the first crime report

Officer Glen Pauls

[REDACTED]

William Benham

Gregory Smith Jr.

Anthony Sundukos

Victoria Briones

Michelle Wimmer

Karie Tiller

Christine King

Susan Johnson

Ronnell Draper

Shawn Bellue

Dennis Saller

Omar Abu-Aita

Marvin Adams Jr.

Gregory Perello

William Benham

Dustin Hanson

Jason Counts

Victoria Counts

Senior D.A. Investigator Chuck Denchfield

Chief D.A. Investigator Bill Hanley

Officer during the first crime report

Victim of domestic violence

Miscellaneous Witness

Miscellaneous Witness

Miscellaneous Witness

Miscellaneous Witness

Miscellaneous Witness

Miscellaneous Witness

Miscellaneous Witness

Miscellaneous Witness

Miscellaneous Witness

Miscellaneous Witness

Miscellaneous Witness

Miscellaneous Witness

Miscellaneous Witness

Miscellaneous Witness

Miscellaneous Witness

Miscellaneous Witness

Miscellaneous Witness

Miscellaneous Witness

Interviewing Witness

Interviewing Witness

### **Investigation:**

On November 21, 2006, I was assigned to complete the internal affairs investigation into this officer involved shooting. I arranged for the interviews of all APD personnel involved in the incident. I compiled the necessary reports to complete this investigation. I further requested the transcripts from Officer Kasfeldt's interview with the District Attorney's Office. I compiled and reviewed all applicable APD policies. I compared the policies, the reports; the statements and the evidence gathered in this incident.

### **Statements:**

#### **Officer Kasfeldt**

On November 22, 2006, I gave notice to Officer Kasfeldt regarding the Internal Affairs investigation. He was noticed to appear at APD on November

27, 2006, at 1300 hours. This date and time were pre-arranged to allow Officer Kasfeldt's attorney to accompany him during the interview.

On November 27, 2006, I interviewed Officer Kasfeldt at APD. He was represented by Attorney Larry Katz. The interview was recorded on an audio tape. I advised Officer Kasfeldt regarding Miranda and he did not waive his rights. I then informed Officer Kasfeldt regarding the Lybarger admonishment and he agreed to make a statement. This interview took place in order to establish if APD policies and procedures were followed.

I asked Officer Kasfeldt about the night of November 18, 2006. The following is a summary of my interview with Officer Kasfeldt. The entire interview is memorialized on an audio tape.

Officer Kasfeldt learned of an impending case against Richard Pope during briefing. The Watch Commander, Sergeant Meyer, advised Officer Kasfeldt regarding an 836 P.C. want for Pope's arrest. During their briefing, Senior Officer Falerios advised that he was familiar with Pope. Falerios advised that Pope had a criminal past which included domestic violence convictions. He further advised that Pope was an ex-police officer who had tactical training. During their briefing, Officer Kasfeldt learned that Pope was possibly armed with a .308 rifle with a scope mounted on it. This information was derived from [REDACTED], (the victim of a domestic violence crime), and from Officer Pauls. Officer Pauls and other APD officers had already gone to [REDACTED] apartment during their shift. Officer Pauls had discovered a note left for [REDACTED] that threatened her life. Officer Pauls was unable to locate Pope or [REDACTED] rifle and there was an ammunition box left in the apartment. The ammunition box was empty.

Officer Kasfeldt began his shift by handling miscellaneous calls fro service. These calls were unrelated to the case involving Pope and [REDACTED]. Officer Kasfeldt received a call for service, where [REDACTED] had called and requested to talk to an officer. Upon calling [REDACTED], Officer Kasfeldt learned that Pope was possibly in the City of Morro Bay. [REDACTED] thought Pope was in Morro Bay because he used a debit card in that city and she saw the transaction when she reviewed her online banking statement. [REDACTED] further advised Officer Kasfeldt that Pope had made comments in the past where he threatened to drive his vehicle into the breakwater.

Officer Kasfeldt relayed this information to Sergeant Meyer and they decided to notify Morro Bay Police Department for officer safety reasons. Officer Kasfeldt was at APD when he received another phone call from [REDACTED]. She told Officer Kasfeldt that she just talked to her neighbor. The neighbor told [REDACTED] that Richard was at home, in their apartment.

At about the same time Officer Kasfeldt was on the phone with [REDACTED], Sergeant Meyer informed dispatch that he was at the Bordeaux House apartments and he had located Pope's Jeep. His Jeep was parked next to the 9377 Bocina apartment building. Officer Kasfeldt drove to the apartment community and spoke with Sergeant Meyer.

Officer Kasfeldt and Sergeant Meyer developed a plan to contain Pope in the event he left his apartment and tried to drive away. They discussed making a phone call into the apartment in an attempt to have Pope exit the apartment and give himself up. As Officer Kasfeldt and Sergeant Meyer looked at Pope's apartment they noticed that the blinds were closed and there were no lights visible inside of the apartment. Officer Kasfeldt requested that Senior Officer Falerios respond to their location to assist.

Officer Kasfeldt called Senior Officer Falerios on his cell phone. He used the phone because he knew Pope was a former police officer and that he might have a police scanner. Senior Officer Falerios was directed to watch the exits of the apartment community, in the event Pope got into his vehicle and fled.

Senior Officer Falerios arrived and stationed at the exits. Officer Kasfeldt and Sergeant Meyer talked about the different scenarios. They talked about calling out S.E.D., the county SWAT Team. However, they both agreed that they did not know if Pope was inside of the apartment. They talked about their vulnerability in where they were currently positioned. Officer Kasfeldt thought Pope would shoot them if he were to see them. Sergeant Meyer contacted me at home and advised of their situation. Sergeant Meyer then requested the assistance of SLOSO deputies. Four deputies arrived to assist APD. Sergeant Meyer went to meet the deputies and brief them on the situation. Officer Kasfeldt was assigned to watch the apartment. Once the deputies were in place at the perimeter of the apartment, Officer Kasfeldt called Senior Officer Falerios on his cell phone and requested that he respond to Officer Kasfeldt's location. Because Officer Kasfeldt was concerned about Pope having a line of fire that would put Senior Officer Falerios at risk, Officer Kasfeldt directed Senior Officer Falerios to his location tactically.



Sergeant Meyer, Senior Officer Falerios and Officer Kasfeldt wanted to disable Pope's vehicle so that he would not flee the area. Their plan was for Officer Kasfeldt to drive up to Pope's parked Jeep and park directly behind it, ultimately disabling Pope's Jeep. Senior Officer Falerios was aiming his AR-15 rifle toward the windows of Pope's apartment, covering Officer Kasfeldt during the move of Officer Kasfeldt police vehicle. While Officer Kasfeldt drove his police unit toward Pope's Jeep, he was cognizant of the threat that Pope posed. Officer Kasfeldt said he ducked behind his dash board, keeping his head down in the event Pope would try and shoot at his vehicle. Officer Kasfeldt said once his car was in position, he ran in the opposite direction, trying to avoid Pope's line of sight.

At this time, Sergeant Meyer used his department cell phone and called into Pope's apartment. Pope did not answer the phone, in spite of the phone ringing several times. All three APD officers talked about the next option. They decided to throw rocks at the front door in an attempt to have Pope exit the apartment. Sergeant Meyer agreed that this was a means to keep them out of harm's way. Their goal was to verify if Pope was inside of the apartment. Officer Kasfeldt ran back toward the pool area to retrieve some rocks. Senior Officer Falerios pointed his rifle toward the apartment to cover Officer Kasfeldt's movement. Officer Kasfeldt retrieved three rocks and ran back to where the other APD officers were staged. The rocks were small, all of the rocks fit into one hand. Officer Kasfeldt said Sergeant Meyer made several calls into the house and he communicated there was no answer on the phone to dispatch and the assisting deputies.

Officer Kasfeldt said the three APD officers moved tactically toward the apartment. Officer Kasfeldt said he would make the arrest and he would write the report if they contacted Pope. Senior Officer Falerios was assigned to cover, (point his weapon), toward the window that faces Bocina in case Pope was in a sniper position. They decided to move toward the apartment so that Officer Kasfeldt could deploy the rocks at the front door to Pope's apartment. Officer Kasfeldt said he slung his rifle and threw a rock at the front door. The first rock and then two others afterward, all hit the front door. After the third rock struck the door, Officer Kasfeldt stepped back and pointed his rifle toward the front door. He disengaged the safety on his AR-15 patrol rifle. They made the decision to now wait it out and see if Pope would come outside. As Officer Kasfeldt pointed his rifle toward the front door, Sergeant Meyer told Senior Officer Falerios to point his weapon at the front window.



Officer Kasfeldt was in a kneeling position and Senior Officer Falerios was behind him, covering the front window. They continued to wait. Officer Kasfeldt knew that Senior Officer Falerios was directly behind him and Sergeant Meyer was directly behind Falerios. Sergeant Meyer told Officer Kasfeldt and Senior Officer Falerios that he was calling into the apartment again. At just that moment, Officer Kasfeldt heard a click. It was the front door unlocking. He knew it was Pope's apartment door. Officer Kasfeldt saw the door open. He immediately saw the barrel of a rifle and the top of a scope. He knew it was a rifle and a scope combined. Officer Kasfeldt remembered yelling, "drop the gun." Pope continued stepping out of the apartment. Officer Kasfeldt yelled again, "drop the gun." Pope started raising the gun up. The third time he was fed up and pleading with him and yelled, "drop the fucking gun." Pope continued to raise the gun up and it was pretty much pointed directly at Officer Kasfeldt. The gun was not all of the way fixed on Pope's shoulder yet. Officer Kasfeldt said he could see the bolt on the rifle Pope had was closed and the rear dust cover on the scope was open. Once the gun was pointed toward Officer Kasfeldt, he could see the front dust cover on the scope was also open. Officer Kasfeldt said it appeared as though Pope was ready to fire. Pope brought his hand up to the forward fore grip of the rifle and Pope got in a shooting stance. "That's when I fired."

Based on a review of the Use of Force Policy, I prepared several questions regarding that policy. Some of the questions were answered during the first part of this interview. I then asked Officer Kasfeldt the following questions:

1. Did the conduct of the suspect leave you with the perception that you or others were in eminent danger?
  - A. Most definitely, I thought that he was going to try and kill me or coincidentally someone else was going to get killed.
2. Do you believe that you used the means necessary to prevent injury or death to yourself or others?
  - A. Yes
3. Were you and the other officers that night in conspicuously marked uniforms?
  - A. Yes, I was under a bright light.

4. Was the force you used in an extreme situation? Correct?  
A. Correct
5. And was it reasonably necessary?  
A. Yes
6. Did you have any prior knowledge that the suspect was under the influence of drugs or alcohol?  
A. No, I had knowledge that he had been involved in drugs before.
7. Are you authorized to possess an AR-15 rifle?  
A. Yes
8. Are you trained in the use of an AR-15 Rifle?  
A. Yes
9. Have you recently qualified at the department range training in the use of an AR-15 rifle?  
A. Yes
10. Do you think that you used reasonable persuasive tactics, ( verbal commands), in order to gain compliance of the suspect?  
A. Yes
11. Was there anything else that you think you could have done, other than the appropriate action you took, in order to mitigate the situation?  
A. No
12. When you parked your car, you moved your car to block him in, am I getting that right?  
A. Yes

13. You were slumped down, underneath the dash board, behind the steering wheel, why did you do that?

A. So I wouldn't get shot.

14. So you had the perception you were going to get shot?

A. Yes

15. You in your mind had the fear that this person was possibly armed or was armed at that time. And because you put yourself in harm's way briefly, you thought that there was an immediate threat so that's why you ducked down, that's why you said you sprinted from that location and around the long way?

A. Yes

16. Did you think that the other folks in the apartment complex were also in danger with this guy inside with a deer rifle?

A. Yes

17. The SWAT intervention, again, you articulated that we're not calling SWAT why?

A. I didn't know he was in there.

18. Had he been inside then there would probably been a negotiation to get him out of the apartment?

A. Ya

The actual questions that Officer Kasfeldt answered either during his statement or by actual questioning are attached to this report

### **Sergeant Meyer**

On November 22, 2006, I gave notice to Sergeant Meyer regarding the Internal Affairs investigation. He was noticed to appear at APD on November

27, 2006, at 1730 hours. This date and time were pre-arranged to allow Sergeant Meyer's attorney to accompany him during the interview.

On November 27, at 1730 hours, I interviewed Sergeant Meyer. He was represented by Attorney Larry Katz. The interview was recorded on an audio tape. I advised Sergeant Meyer regarding Miranda and he did not waive his rights. I then informed Sergeant Meyer regarding the Lybarger admonishment and he agreed to make a statement. This interview took place in order to establish if APD policies and procedures were followed.

I asked Sergeant Meyer about the night of November 18, 2006. The following is a summary of my interview with Sergeant Meyer. The entire interview is memorialized on an audio tape.

On November 18, at approximately 1845 hours, Sergeant Meyer arrived at work and talked to the off-going Watch Commander, Sergeant Molle. Sergeant Molle told Sergeant Meyer about a crime report involving Richard Pope who was the listed suspect in a crime against his girlfriend. Pope was accused in the report of a battery, holding his girlfriend against her will and criminal threats. Sergeant Molle advised Sergeant Meyer that they had already gone to Pope and [REDACTED] apartment and they did not contact him, as he was not there. Sergeant Molle told Sergeant Meyer that they issued a "Be on the look out" for Pope and that he was arrest able per 836 P.C. Officer Pauls then briefed Sergeant Meyer regarding the impending case against Pope. Sergeant Meyer was provided a booking photo of Pope. Sergeant Meyer read over the Probable Cause statement attached to an SLOSO pre-booking form.

Sergeant Meyer then briefed Senior Officer Falerios and Officer Kasfeldt. Senior Officer Falerios was familiar with Pope because he had arrested Pope before in Morro Bay. Sergeant Meyer discussed his concerns about Pope because he possibly had access to a weapon; that Pope had been a "cop" before, and that Pope was SWAT trained.

The officers on shift handled the various calls for service during the beginning of their shift. Officer Kasfeldt was called back to the station to handle a supplemental report. Sergeant Meyer was called on the cell phone by Officer Kasfeldt and Sergeant Meyer learned that the supplemental report was a report from the original victim, [REDACTED]. Officer Kasfeldt advised Sergeant Meyer that there was some type of transaction earlier in the day in the City of Morro Bay. [REDACTED] told Officer Kasfeldt that her ATM or bank card was used

and that Officer Kasfeldt was told about Pope's threat to drive off into the breakwater. Officer Kasfeldt asked Sergeant Meyer if he should notify Morro Bay Police Department and Sergeant Meyer said yes. Sergeant Meyer was concerned that if their police department encountered Pope, he might be armed with a weapon.

Sergeant Meyer conducted extra patrol in the Bordeaux House apartments. Soon after his arrival at the apartment community, Sergeant Meyer saw a Jeep parked near [REDACTED] and Pope's apartment. Sergeant Meyer notified dispatch and he concealed his patrol vehicle. Sergeant Meyer did not know which exact apartment was in question. Sergeant Meyer looked at the apartments and tried to identify which apartment Pope could possibly be in.

Officer Kasfeldt arrived to assist Sergeant Meyer. Officer Kasfeldt informed Sergeant Meyer that he had talked to [REDACTED] again. [REDACTED] had talked to a neighbor who told her that Pope was in the apartment. Sergeant Meyer did not see any lights on inside of the apartment. Sergeant Meyer thought Pope might be in the apartment. He considered this case as being a case that the District Attorney would file on, so Sergeant Meyer contacted me, the Detective Sergeant. Sergeant Meyer wanted to know if they should just walk away from the incident. However, Sergeant Meyer thought Pope was a wanted felon with a gun. Sergeant Meyer began formulating a plan on what he and the others on his shift wanted to do. He planned on calling in and having Pope come out, and then they would contact him.

Because there were only three APD officers on duty, he wanted someone to cover the rear of the apartment. Sergeant Meyer requested the assistance of SLOSO deputies. Sergeant Meyer said that some of the calls he made were not on the radio, rather they were made using his department issued cell phone. Sergeant Meyer did not want Pope listening on a police scanner. Two Sheriff's units arrived to assist and so did Senior Officer Falerios. Sergeant Meyer briefed the deputies on who the suspect was and the threats involved. Sergeant Meyer placed the deputies in positions around the apartment. Sergeant Meyer added that there were still no lights seen in the apartment. The deputies were positioned in place with a rifle and a night scope.

Once all officers and deputies were in a position to maintain a perimeter, Sergeant Meyer directed Officer Kasfeldt to use his patrol vehicle to block in Pope's vehicle. Sergeant Meyer wanted to call into the apartment; Sergeant Meyer would identify himself and Pope would exit the apartment. Sergeant Meyer wanted to then contact Pope in the middle of the street. Sergeant



Meyer then made a phone call into the apartment, but did not receive a response. The phone rang about twenty times. Sergeant Meyer then called into dispatch to verify that he had the correct phone number and if there were other phone numbers that he could use to reach Pope. There was no alternate numbers and he verified that he had the right number. There was still no response from Pope.

Sergeant Meyer did not know if Pope was inside of the apartment and he didn't know if Pope was armed in the apartment. He didn't know if he was conscious if he was in there. Sergeant Meyer said he could not walk away from a situation where he had a 422 suspect who has access to a weapon, and who based on the knowledge that Pope had been to his girlfriend's sister's house and he could probably find her if he wanted to find her. Sergeant Meyer could not walk away from an 836 subject. "I had to make sure he was there." Sergeant Meyer called me back to advise me, (The Detective Sergeant), regarding the situation.

Sergeant Meyer decided that if he did answer the phone and he did not come out it would have been an automatic SED, (SWAT), call out. "I also told dispatch that I wanted the phone numbers from all of the surrounding apartments in the event that he had to begin an evacuation, so I could quietly do that." Sergeant Meyer also thought that if it was a barricaded suspect, he would request AFD fire personnel to assist in the evacuation of the surrounding apartments in the rear. At this point, Sergeant Meyer did not know if he had a barricaded suspect, he didn't know if anyone was in the building.

After Officer Kasfeldt's vehicle was in place and after the deputies were staged in their places, Sergeant Meyer's plan was for Officer Kasfeldt, Senior Officer Falerios and he would approach the area near the apartment. Sergeant Meyer decided to not use a P.A system or a bull horn because if Pope did have a weapon, and he wanted to use it, there were already had some people outside. "The minute I got on a P.A and started broadcasting, it would have two effects. One, it would draw other people outside of the building other than him, that would have been potential victims. Two, whether I used the portable P.A. or I'm moving to a position to use a P.A., I run the risk of him looking out of a window that I can't see him because he's back and now he's shooting."

"We decided between the three of us who would be the best rock thrower, to actually hit he door. The reason we were going throw rock at the door versus

going up to the door was again, from my training and experience, he was an ex cop with a high power rifle, I knock on the door, he knows I'm going to stay off to the side, he decides to shoot, It's going to go through the door and through the officer and now I have an officer down, If not more than one. So, that was not an option to go and knock on the door. The rock idea was a good way to get his attention and see if there's a response."

Sergeant Meyer instructed Officer Kasfeldt to go and retrieve some rocks. Officer Kasfeldt told Sergeant Meyer he had seen some rocks earlier that could be used to throw at the door. Officer Kasfeldt left to retrieve the rocks. Sergeant Meyer contacted a subject who was walking in the area. This subject lived near Pope. This subject did not know if Pope was in his apartment. The subject left the area soon thereafter.

Sergeant Meyer had Senior Officer Falerios and Officer Kasfeldt move up to the breezeway near the apartment. Another subject came running toward Sergeant Meyer. She told Sergeant Meyer that she was a neighbor downstairs. He asked the neighbor if she was the one who called the victim, (REDACTED). She said yes. Sergeant Meyer asked the neighbor if he's in there. She replied, "There's someone upstairs, I can hear movement upstairs." She knew someone was in the upstairs apartment. Sergeant Meyer knew that someone was possibly in the upstairs apartment. The neighbor was directed to go back inside of her apartment.

Sergeant Meyer and both APD officers moved up to a corner. Officer Kasfeldt was up at the front because he was going to throw the rocks. Officer Kasfeldt slung his rifle. He stepped out. Sergeant Meyer directed Senior Officer Falerios to cover Officer Kasfeldt and Sergeant Meyer would cover the front window. Officer Kasfeldt was in the front; Senior Officer Falerios was behind him and Sergeant Meyer was behind Senior Officer Falerios. Officer Kasfeldt threw three or four rocks and then got down into a squatting position, covering the front door, (aiming his rifle toward the front door). Sergeant Meyer told Senior Officer Falerios to cover the front window, as there was no response from the rocks being thrown. Sergeant Meyer told Senior Officer Falerios that he was going to call into the apartment again. They were covering their positions and Sergeant Meyer picked up the department's cell phone. He dialed Pope's number again and it was approximately the sixth ring, Sergeant Meyer heard Officer Kasfeldt yelling, "Let me see your hands, fucking let me see your hands" or something to that effect. Then Officer Kasfeldt said, "drop the gun, drop the gun, drop the gun." Then he fired. As soon as he fired, Sergeant Meyer put out, "shots fired," over the radio.

Sergeant Meyer and Senior Officer Falerios "sliced the pie around the corner." "The first thing we saw was the subject's right foot and the barrel of the gun pointed in their direction." Sergeant Meyer immediately summoned paramedics.

Sergeant Meyer did not know if the suspect was alive, dead or faking it. Sergeant Meyer pulled Officer Kasfeldt out of the situation, and he and Senior Officer Falerios approached the suspect to secure the weapon. Sergeant Meyer was able to determine that the suspect was not able to use left arm and he had labored breathing. The suspect's eyes were rolled back. Sergeant Meyer cleared the apartment and made sure there were no other suspects or possible victims inside of the apartment.

Sergeant Meyer returned to where the suspect was and saw that the suspect was still breathing. Sergeant Meyer then looked in the apartment and surrounding area for any bullets or bullet holes. Officer Kasfeldt and Senior Officer Falerios stood by the suspect and maintained security of the suspect's weapon. Deputy Tate arrived shortly thereafter and maintained security of Pope's rifle.

The suspect's breathing had stopped just as paramedics arrived. Senior Officer Falerios, with the assistance of the deputies on scene began an inner perimeter and then an outer perimeter for crime scene preservation. The deputies assisted by taking statements from any witnesses who were outside and in the area. Sergeant Meyer verified that the necessary notifications were made to command staff, the D.A.'s Office, and detectives. Because Sergeant Meyer was present for the shooting, he only asked Officer Kasfeldt how many rounds he shot. Sergeant Meyer then took custody of Officer Kasfeldt's rifle and he removed the magazine. Sergeant Meyer kept the rifle and magazine in his possession until he was able to secure the items in his vehicle.

Sergeant Meyer requested that Officer Vanderberg report for his shift early and he saw to it that Officer Kasfeldt went to the police station. Sergeant Meyer directed Senior Officer Falerios follow the ambulance to Twin Cities Hospital. Upon Detective Vasquez's arrival, Sergeant Meyer turned the crime scene over to him.



Based on a review of the Use of Force Policy, I prepared several questions regarding that policy. Some of the questions were answered during the first part of this interview. I then asked Sergeant Meyer the following questions:

1. You did personally examine Officer Kasfeldt and see to it that he was alright?

A. Yes

2. You did complete a use of force report, correct, crime report?

A. Yes

3. Did you recall Officer Kasfeldt using reasonable persuasive tactics, (verbal commands), in order to de escalate this incident?

A. Yes

4. In order to gain compliance from the suspect?

A. Yes, most definitely

5. Do you think that Officer Kasfeldt used the means necessary to prevent injury or death to himself, you, or others?

A. Yes

6. Was there potential for you the other officers and citizens to be injured or killed in this incident?

A. Yes

7. Were you and the other officer in conspicuously marked police uniforms?

A. Yes, I was in short sleeved with shoulder patches and a badge and Wyatt was in short sleeved shoulder patches

and badge with gloves on. Keith was in BDU long sleeved K-9.

8. Who was responsible for the crime scene log?
  - A. Initially we just had a verbal, and then it was given to Findlay. Then, he gave it over to Vasquez.
9. And you saw to it that our command staff was notified?
  - A. Yes

On December 5, 2006, I interviewed senior Officer Falerios. After interviewing Senior Officer Falerios, I was able to determine that his statements were consistent with his written report. His statements were also consistent with the other reports, victim and witness accounts.

**Report review and witness statements and evidence:**

Initially, I reviewed the first crime report, APD Case # 06-3391. This report was authored by Officer Pauls. In this report, the victim-██████, reported that her live-in boyfriend, Richard Pope, had physically assaulted her on the evening of November 17, 2006.

The victim was grabbed and pinned against a piece of furniture. The victim also said she was held against her will for approximately 20 minutes. The victim said on November 16, 2006, Pope acted very aggressively toward ██████. He punched some holes in the walls of their apartment. Pope made statements to the effect of, "Without their relationship, nothing else mattered." ██████ was concerned that Pope might hurt himself.

██████ reported Pope was possibly in possession of a .308 rifle. She further reported that Pope has access to the weapon and the ammunition for that rifle. ██████ said Pope was a former peace officer and he was on a special response team. ██████ said Pope still had that same mentality and mind set.

Officer Pauls tried to reach Pope by telephone on numerous occasions, but he never answered the phone. When ██████ was advised Pope was not answering the phone, she was concerned that Pope would harm himself.

Officer Pauls retrieved a key to her apartment so they could check on Pope's welfare and retrieve the weapon for safe keeping. Officer Pauls also obtained an EPO at [REDACTED] request. The EPO required Pope to immediately vacate their apartment.

Sergeant Molle, Senior Officer Brown, Officer LeClair, and Officer Pauls went to [REDACTED] apartment in an attempt to check his welfare; to serve the EPO and to retrieve the weapon. Upon their arrival at the apartment, Pope's vehicle was not at the location and no one was found inside. The rifle and ammunition was also missing. However, there was an empty box of ammunition in the closet of the master bedroom.

Officer Pauls saw a message written on an eraser board. The eraser board was attached to the refrigerator. The message stated: " I put everything into you, you are now a mark, the mission will be completed, you told me you were going for a drive and you would be back?? xxx." There was also a butcher knife stuck in the wall of the kitchen. Officer Pauls sent a county-wide officer safety be on the look-out message regarding Pope.

[REDACTED] was in genuine fear for her safety and interpreted the knife and message to be a threat. She told Officer Pauls that she would hide from Pope. Based on the above listed facts, Officer Pauls issued an 836 P.C. want for Pope's arrest. Sergeant Meyer was the Watch Commander for the next shift. Officer Pauls explained this case to him.

On November 29, 2006, I again reviewed Atascadero Police Department Case #06-3391 which describes the domestic violence incident between the victim, ([REDACTED]), and the suspect, (Pope). Officer Pauls investigated this crime and wrote the crime report.

In reviewing this case, it was my opinion that there was probable cause to believe the crimes of 273.5 (a) P.C., (Inflict Corporal Injury to a Co-habitant), 236 P.C., (False Imprisonment), and 422 P.C., (Threaten to Terrorize), were committed against [REDACTED]. All of these crimes are listed and charged as felonies. Therefore, the issuance of a want for Pope's arrest was valid, per 836 (a) (3) P.C.

On November 29, 2006, I reviewed Atascadero Police Department Case #06-3395. This report was investigated and written by Sergeant Meyer. Sergeant Meyer's investigation was supplemented by several other reports.

Sergeant Meyer saw Pope's vehicle parked near Pope's apartment. Believing Pope was now inside of the apartment, additional officers and deputies were summoned to the location. A tactical plan was established and the Officers and Deputies implemented their plan. Their goal was to have Pope exit his apartment and they were going to take him into custody.

Sergeant Meyer made several telephone calls in an attempt to have Pope exit the apartment. Pope did not answer the phone. Officer Kasfeldt used rocks to knock on the front door, so the officers were not directly in front of the suspect's door. Using his department cellular phone, Sergeant Meyer called into the apartment again. While he was on the phone, Pope exited the apartment with a scoped rifle. He was given commands to drop his weapon. Officer Kasfeldt fired his AR-15 rifle 3 to 5 times. The suspect was struck by the rifle's bullets and was lying down. Sergeant Meyer saw Pope's feet and the barrel of a rifle.

Sergeant Meyer assisted in securing Pope's weapon. He then summoned medical attention immediately. The apartment was initially searched and no other suspects or victims were located. Sergeant Meyer then summoned detectives, the District Attorney's Office and command staff support. He continued to assist in the investigation until detectives were on scene. Sergeant Meyer noted that the weapon Pope had been a fully loaded .308 caliber rifle. There was a round in the chamber of the weapon and it was on safe. The rifle had a scope mounted on it and the dust covers were in the up position.

After reviewing this report, there was probable cause to believe that Richard Pope committed the crime of 245 (a)(2) P.C. against Officer Kasfeldt, Senior Officer Falerios and Sergeant Meyer.

I reviewed Detective Vasquez's supplemental report to APD Case #06-3395. This report was approved on 11-28-2006. On 11-18-2006, he interviewed Gregory Smith Jr. Gregory Smith Jr. said he heard an officer yell out once, "Put the gun down." He then heard "two or three gun fire." Gregory Smith Jr. is 12 years old. Detective Vasquez also interviewed Anthony Sundukos. Sundukos said he heard police say, "Put it down three times." He didn't know exactly what was said, and then he heard the gunshots.

I reviewed detective Carr's supplemental report to APD Case #06-3395. This report was approved on 11-28-2006. On 11-19-2006, he interviewed Victoria Briones. Briones lives in an apartment near [REDACTED] and Pope's apartment. At



approximately 2200 hours, she heard things falling on the stairs and shuffling of feet. She heard a male voice yelling a warning or instructions, but she was unable to make out what was actually being said. She heard what she thought was gunfire, maybe 3 or 4 shots. Detective Carr then interviewed Michelle Wimmer. Wimmer said she only heard 4 or 5 quick loud bangs. Her other family members concurred with her statement. Detective Carr interviewed Karie Tiller. She recalled hearing 4 shots. She then remembered hearing someone yelling, "Get your fucking hands in the air." She thought she heard those statements after the gunshots. Detective Carr interviewed Christine King. King heard voices shouting. She then heard 4 or 5 gunshots.

Detective Carr interviewed Susan Johnson. Johnson said she was outside of her apartment and saw an officer peeking around the building. She went back inside of her apartment. She was on the phone with a friend when she said she watched the incident. She saw 4 officers walk toward the apartment building. She saw them throw rocks or something at the door. She then heard what sounded like, "officer or police officer get down, get down." She then heard 5 shots in quick succession. Detective Carr interviewed Ronnell Draper. Draper was inside of Susan Johnson's apartment and he was looking out of the window. He saw the officers walk up Bocina lane and toward the suspect's apartment. He heard loud yelling, "police officer, get down. He then heard approximately 5 shots.

I reviewed Detective Carr's supplemental report to APD Case #06-3395. This report was approved on 11-28-2006. On 11-21-2006, Detective Carr interviewed Shawn Bellue. Bellue said she was outside of her apartment when she heard 4 gunshots. She then looked toward the apartment building and saw two officers pointing their guns upstairs at an apartment.

On 11-22-2006, Detective Carr interviewed Dennis Saller. Saller said he was on the phone when he heard yelling and then heard 5 or 6 gunshots. He heard more yelling, really loud and believed the voices were saying, "Get down, get down, He's hit, He's hit." Saller looked out of his window and saw a cop with a gun pointing up the stairway of the suspect's apartment. He saw the officer go up the stairway a little while later. Detective Carr interviewed Omar Abu-Aita. Abu-Aita said he arrived home at approximately 2200 hours. He saw officers with their guns out near the suspect's apartment. He went inside of his apartment and approximately 10 minutes later, he heard gunshots. Abu-Aita said that his wife had seen the officers outside before he arrived home.

I reviewed Detective Wilshusen's supplemental report to APD Case #06-3395. This report was approved on 11-21-2006. In this report, Detective Wilshusen documents the verification that the watch Commander's phone, (the phone that Sergeant Meyer had on the night of this incident), did in fact have the suspect's phone number on the memory as one person he had called. That call was logged at 2206 hours. He also booked a CD which had the dispatch recordings for this incident.

I reviewed Sergeant Dana's supplemental Report to APD Case #06-3395. This report was approved on 11-22-2006. Sergeant Dana inspected Officer Kasfeldt's patrol rifle and found it to be clean, serviceable and in good working order. His duty magazine was also in good condition. The ammunition in the weapon was issued by APD. One round at the bottom of the magazine was identified as a practice ammunition round. Sergeant Dana confirmed that the weapon's magazine contained the proper amount of ammunition per APD policy.

Also in this report, Sergeant Dana was able to provide documents of APD's ownership of this weapon; the inspection record, dated 6-5-06, and a copy of his re-inspection, dated 11-19-2006.

On December 4, 2006, I reviewed Senior Officer Falerios' supplemental report to APD Case #06-3395. This report was approved on 11-21-2006. He, Officer Kasfeldt and Sergeant Meyer stood in front of 9377 Bocina #F. Falerios said that Officer Kasfeldt was the only one who had a view of Pope's apartment door. Senior Officer Falerios heard Officer Kasfeldt yell several times, "Drop the gun." Senior Officer Falerios moved closer to Officer Kasfeldt. He saw that Officer Kasfeldt was yelling at Pope. Senior Officer Falerios saw that Pope was armed with a scoped rifle with both of his hands. He saw the weapon was pointed at Officer Kasfeldt. Senior Officer Falerios thought that Officer Kasfeldt was in immanent danger of being shot by Pope. Senior Officer Falerios moved backward to gain better cover and to pull Officer Kasfeldt behind cover. He feared they were in danger. Officer Kasfeldt fired several rounds from his rifle. Senior Officer Falerios assisted in securing Pope's weapon. Senior Officer Falerios then assisted in the follow up investigation by going to the hospital where Pope was being transported.

I reviewed San Luis Obispo Sheriff's Department report, case # 061109468. This report was written by Deputy John Marrs. This report was approved on 11-21-2006. This report was consistent with all reports that were reviewed.

Deputy Marrs also assisted by interviewing witnesses. He talked to Marvin Adams Jr.

Adams said he saw all of the police officers that night. He went outside and heard the officer yelling, "Put the gun down." Adams said he heard this three times. He remembered a short pause and then three or four shots being fired. Adams was adamant that the officer clearly gave demands to place the gun down prior to firing. Deputy Marrs then interviewed Gregory Perello. Perello said that he was in the apartment complex visiting a friend. Perello had seen all of the police vehicles on scene and he was three quarters of a block away from on Bocina. He could hear, "drop the gun." He heard this at least three times. Shortly thereafter, he heard four or five shots being fired. Deputy Marrs interviewed William Benham. Benham said he saw the police units in the area. He saw the Atascadero Police Officers approach the stairway that leads to apartment #F. He saw the officer throw something up the stairs and a short time later, he heard an officer yell, "Put the gun down, put the gun down, put the fuckin' gun down." Benham said there was a pause and then he heard four to five shots being fired. He said the shots were fired from an officer carrying a rifle. Benham was an eyewitness to the incident.

I reviewed San Luis Obispo Sheriff's Department supplemental report, case # 061109468. This report was written by Deputy Steven Tate. This report was consistent with all reports that were reviewed. Deputy Tate observed an open and partially empty box of ammunition that was on the couch inside of the suspect's apartment.

I reviewed San Luis Obispo Sheriff's Department supplemental report, case # 061109468. This report was written by Deputy Jeremy Flores. This report was consistent with all reports that were reviewed. Deputy Flores overheard a witness that said, "I saw everything." He contacted and interviewed Dustin Hanson.

Hanson told Deputy Flores the following. He had seen the officers shoot the subject. Hanson said that he was standing in a position to see the stairway that led to the suspect's door. He did not see the suspect's door, just the stairway that led up to the door. He saw the officers approach the bottom of the stairway and heard one of the officers yell, "drop it, drop the gun." Hanson then heard three gunshots. Hanson added he did not see the suspect from where he was standing.

Deputy Flores then interviewed Jason Counts. Counts said he was inside of his apartment when he heard someone yelling, "Drop it, drop it, drop it now." Counts then heard three shots. Counts said his wife was home during the incident. Deputy Flores interviewed Victoria Counts. Victoria said she heard someone scream, "Drop it, drop it now." She then heard several shots.

I reviewed San Luis Obispo Sheriff's Department supplemental report, case # 061109468. This report was written by Deputy Mark Adams. This report was consistent with all reports that were reviewed. Deputy Adams assisted by locating evidence, (spent .223 ammunition casings). He photographed the casings and the suspect's rifle.

I reviewed San Luis Obispo Sheriff's Department supplemental report, case # 061109468. This report was written by Forensic Specialist Kenneth Jones. He was able to verify that the suspect who was deceased was in fact Richard Daniel Pope. He also assisted in crime scene evidence collection at the crime scene.

On November 29, 2006, I received a copy of the transcript of Officer Kasfeldt's interview with the Chief Investigator from the San Luis Obispo County District Attorney's Office, Bill Hanley. Also present for the interview were Senior Investigator Chuck Denchfield and Officer Kasfeldt's attorney, Larry Katz.

On December 5, 2006, I reviewed the transcript. The transcript in its entirety was consistent with my interview of Officer Kasfeldt and Sergeant Meyer. Additionally, the transcript was consistent with witness', Officers', and Deputy's accounts of the incident.

After reviewing the preceding information, I was able to determine that all interviews, witness statements and reports were consistent. It should be noted that several other witness were interviewed during the investigation. Their statements did not provide additional information and were not significant in this investigation.

On December 6, 2006, I listened to the radio transmissions from dispatch on the evening of November 18, 2006. After reviewing the radio communications between Sergeant Meyer, Senior Officer Falerios, Officer Kasfeldt, and



numerous other transmissions, I concluded that the radio communications were consistent with all previously reported statements.

### **Training Records:**

I reviewed the training records of Officer Kasfeldt. I verified that Officer Kasfeldt attended the POST Target Rifle course on June 22, 2004. He obtained a certificate verifying he passed the course. Additionally, he attended the September 2006 range training day which took place on September 14, 2006. Part of that range training was classroom review of the patrol rifle and qualification. He passed the patrol rifle course. All documentation of this training is attached to this report.

### **Policy Review:**

After reviewing all reports, interviews and witness statements, I completed a comprehensive review the applicable APD General Orders that were related to this case. The policies were compared to the reports reviewed, the statements that were taken and the evidence that was analyzed.

### **0800 Uniforms and Equipment:**

Section I, (Policy); Section IV, (Uniform Classification for Sworn Personnel), sub-sections B-4 or B-8; Section VI, (Uniform Regulations for Department Personnel), sub-Section A-1; Section VIII, (Uniform Accessories). All department personnel on scene for this incident met the requirements of this policy.

### **0015 Command Staff/ Chief Of Police/ City Manager Notification:**

Section I, (Policy); Section II, (Procedure), sub-sections A-1 b,c,d,e,h,k,s,t,x,y and A-3 b. Sergeant Meyer who was the Watch Commander on scene for this incident met the requirements of this policy.

### **1202 Authorized Weapons and Ammunition:**

Section I, (Policy), sub-sections A and B; Section III, (Procedure), sub-sections A-3. b. 1) a). b).; Section IV, (Approved Weapons List), subsections A. 3, 4 and 5, and Section V, (Approved Ammunition List), subsection 9. The

weapon used in this incident met all of the above policy and procedure requirements.

#### **1018 BOLO Procedures:**

Section I, (Policy); Section II, (Procedures), sub-sections A. 1 and 2.; B.1.; C. and D. All department personnel for this incident met the requirements of this policy.

#### **0221 Call-Out Procedures:**

Section I, (Policy), sub-section A; II. (Purpose), sub-section A. 1 through 5; III, (Procedure), sub-section A.3. and 4.; B. 1 through 3; D and E.1. Sergeant Meyer, who was the Watch Commander on scene for this incident, met the requirements of this policy.

#### **1500 Criminal Investigations:**

Section I, (Policy), sub-section A. 3.; Section II, (Procedure), sub-section A. 1.a. b. c. d. and g.; 2. a. b. e. f. g. h. i. k.; 3; 4. a through d, and f through I; 5. a. c. d. f.; sub section B. 1. a.2. b.3. a. d. e.; 5; 6. a. through d.; sub-section C. 1.,2. and 3.; D.1. a. 1).; h. and i.; 2 a. through f.; and sub-section E. 1., 2. and 3. All department personnel for this incident met the requirements of this policy.

#### **1503 Death Investigations:**

Section I, (Policy), sub-section A.; Section II, (Procedure), subsection A. 1.;2. a. and c.; 3. a. through c.; 5. a. and b.; sub-section B. 1. and 2.; subsection C. 1 through 3; subsection E. 1.; 3.; 5.; 6.; subsection F. 1. and 2.; and subsection G. 1. All department personnel for this incident met the requirements of this policy.

#### **1204 Discharge of Firearms:**

Section I, (Policy); Section III, (Procedure), subsection A. 1. Officer Kasfeldt met the requirements of this policy.

#### **1203 Firearms Proficiency:**

Section I, (Policy), sub-section A. and B.; Section III, (Firearms Proficiency and Qualifications), subsection A. 1. c.; B. 1.a.; C. 1. and 2.; E. 1. a. and b. and H. 1. a. In reviewing Officer Kasfeldt's training records; he met or exceeded the requirements of this policy.

### **1201 Use of Force:**

Section I, (Policy), sub section A. 1. Per CPC 835 (a), an officer can use reasonable force to effect an arrest of a person who has committed a public offense, to prevent escape or overcome resistance. The APD personnel involved in this case had reason to believe the suspect in this case had committed a public offense.

Section III, (Authorization, Standards and Restrictions),

Sub-section A. The officers may use force, when necessary to discharge lawful duty and when alternatives to the use of force are unavailable, impractical or unsuccessful.

Sub-section 1. The decision to use force rests with each officer.

Sub-section 3. The officer is expected to respond with only that level of force that is reasonably appears appropriate under the circumstances.

Sub-section 4. The officer is entrusted with well-reasoned discretion in determining the use of force in each incident. The objective is to minimize injury to everyone involved.

Sub-section B.5. The use of deadly force is the ultimate use of force and therefore should be used in only extreme situations. If the force causes death, the force must appear reasonably necessary under the circumstances and within the procedures of the Department.

Subsection C., inclusive of subsections 1 through 11. When determining whether or not to apply any level of force and evaluating whether an officer has used reasonable force, a number of factors should be taken into consideration. Those factors may include the following: The conduct of the individual being confronted, (as reasonably perceived by the officer at the time); Officer/ subject factors, (age, size, relative strength, skill level, injury/exhaustion, etc.); Influence of drugs and or alcohol; Proximity of weapons; availability of other options; seriousness of the suspected offense;

training and experience of the officer; Potential for injury to citizens, officers and suspects; risk of escape; Other exigent circumstances, and availability of specialized units.

Subsection D, inclusive of subsection 1. An officer may generally employ only those weapons and tools in the use of force that he/she is authorized to possess by current policy. Nothing in the policy prohibits an officer from using whatever means are necessary to prevent death or serious injury, either to himself/herself, or another person.

Subsection E, Medical assistance shall be summoned for subjects who have been injured.

#### Section IV, (Use of Force Options)

Subsection A, Officers are encouraged to use verbal commands whenever possible.

Subsection E. 1. Officers should resort to the use of firearms when it appears reasonably necessary. The use of firearms is the use of deadly force and is justified:

Subsection a. To protect the officer or others from what reasonably appears to be an immediate threat of death or serious bodily injury.

#### Section V, (Use of Force Incidents)

Sub-section A.1. Significant Force is defined as any force required to overcome prolonged and or violent resistance, or force requiring more than one officer to subdue or control a suspect.

Sub-section A.2. b. The officer involved shall document the use of force and the nature of the force used.

Sub-section A.2.c. The Watch Commander shall personally examine the persons involved and interview him/her regarding the incident.

Sub-section B. (Deadly Force), subsection 2., inclusive of subsections a.1). through a.6). Involved Officers: Care for injured persons; summon ambulance; Control and protect scene, Notify Dispatch of the incident;

Locate and identify witnesses; Do not discuss the incident except to disseminate necessary information. Subsection b.1). The Watch Commander must ensure that the above steps were followed. All other policies regarding the follow-up investigation were followed. Sergeant Meyer, Officer Kasfeldt and Senior Officer Falerios acted in accordance with this policy during this incident.

In reviewing the Use of Force policy, all APD personnel met the requirements of this policy.

On December 11, 2006, I talked to Senior District Attorney Investigator Chuck Denchfield regarding his interview of Senior Officer Falerios and Sergeant Meyer. During my discussion with Senior Investigator Denchfield, I learned that the statements from both Senior Officer Falerios and Sergeant Meyer were consistent with my interviews and their respective written reports.

### **Summary:**

In summary, after reviewing all of the reports; interviews; transcripts; training records; policies and procedures, I was able to verify that all applicable Atascadero Police Department policies and procedures were followed regarding this incident. I am forwarding this investigation to The Chief of Police for final disposition.

### **Attachments:**

1. APD Crime Report #06-3391
2. APD Crime Report #06-3395
3. SLOSO Supplemental Report #061109468
4. Interview Transcript by The District Attorney's Office, (Kasfeldt)
5. Interview Notices, Questions, and Training Records, (Kasfeldt)
6. Interview Notices and Questions, (Meyer)
7. APD General Order 1201
8. APD Standard Operating Procedure #6, (Officer Involved Shooting)
9. California Penal Code Sections: 245 (a) (2); 273.5(a); 236 and 422

10. Audio cassette tapes of interviews with Sergeant Meyer and Officer Kasfeldt, and Compact Disk containing the radio and phone conversations on 11-18-2006, Evidence Photos C.D.

**Applicable Authorities:**

- APD General Order 1201, Use of Force
- APD General Order 0800, Uniforms and Equipment
- APD General Order 0015, Command Staff/Chief Of Police/City Manager Notification
- APD General Order 1018, BOLO Procedures
- APD General Order 1202, Authorized Weapons and Ammunition
- APD General Order 0221, Call-Out Procedures
- APD General Order 1500, Criminal Investigations
- APD General Order 1503, Death Investigations
- APD General Order 1204, Discharge of Firearms
- APD General Order 1203, Firearms Proficiency
- APD Standard Operating Procedures #6, Officer Involved Shootings/ Deadly Force Incidents
- California Penal Code Section 196, 197, and 199
- California Penal Codes 273.5 (a), 422, and 236, 245 (a) (2)